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In re Application of FISHER et al. :
Application No.: 10/579,513 : DECISION ON
PCT No.: PCT/US04/38130 :
Int. Filing: 15 November 2004 : RENEWED PETITION
Priority Date: 14 November 2003 :
Attorney Docket No.: KCK-002 : UNDER 37 CFR 1.497(d)
For: DEEP WELL IRRIGATION PUMP :

This is a decision on applicant's Renewed Petition under 37 CFR 1.497(d), filed in the United States Patent and Trademark Office (USPTO) on 30 April 2008. Petitioner requests a one month extension of time, which is granted.

BACKGROUND

The history of this application has been set forth in the decision mailed on 30 January 2008 and will not be related here. The 30 January 2008 decision indicated that applicant had failed to satisfy the requirements of 37 CFR 1.497(d) to delete Mohammed SWALEH who was identified as an inventor in the published international application (PCT/US04/38130) but was not identified as an inventor on the declaration.

DISCUSSION

Applicant has now filed declarations which comply with 37 CFR 1.497(a) and (b). The newly executed declarations identify all of the inventors identified in the international application PCT/US04/38130 including inventor Swaleh.

Applicant renews his request to delete inventor SWALEH under 37 CFR 1.497(d)¹. As

¹ 37 CFR 1.497(d) states, in part: If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by:

- (1) A statement ...from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part;
- (2) The processing fee set forth in § 1.17(I); and
- (3) If an assignment has been executed by any of the original named inventors, the written consent of the assignees.


set forth in the 30 January 2008 decision, Mohammed SWALEH statement indicates "I am the inventor of the subject matter of one or more claims originally presented in the International (PCT) Patent Application PCT/US04/38130. I am not an inventor of the subject matter of any of the claims entered by Preliminary Amendment on May 12, 2006." This is not a statement that the error in inventorship in the international application occurred without deceptive intent on his part. Inventor SWALEH was correctly named as an inventor in the PCT application. His statement does not satisfy item (1) of 37 CFR 1.497(d).

In light of the preliminary amendments filed in this application, applicant may wish to pursue a petition under 37 CFR 1.48(b).

CONCLUSION

For the reasons discussed above, applicant's renewed petition under 37 CFR 1.497(d) to delete MOHAMMED SWALEH as inventor is hereby **DISMISSED**.

The declaration submitted on 30 April 2008 is in compliance with 37 CFR 1.497(a) and (b). The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 30 April 2008.


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